

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1114

Citations Affected: IC 24-5-15; IC 27-7-3.6; IC 32-21-7-1; IC 33-37-6-2; IC 36-2.

Synopsis: Various property matters. Various property matters. Conference committee report for EHB 1114. Establishes the title insurance enforcement fund. Imposes a \$5 fee on the purchaser of a title insurance policy and requires the insurer to deposit \$3 of the fee in the title insurance enforcement fund (the insurer is allowed to retain \$2 of the fee for administrative costs). Authorizes the budget agency to augment the appropriations to the department of insurance from the title insurance enforcement fund. Specifies the language sufficient to incorporate by reference a recorded covenant, restriction, easement, or other encumbrance in a conveyance of land. Provides that an adverse possessor or claimant who wishes to establish title to land or real estate must pay the taxes and special assessments that the adverse possessor or claimant reasonably believes in good faith to be due on the land or real estate. (Current law requires the adverse possessor or claimant to pay the taxes and special assessments due on the land or real estate.) Provides the methods of payment that a county recorder may authorize that the county recorder may be paid with. Provides that a county recorder may collect a sum if it is charged a fee for the use of a financial instrument. Requires a court clerk and a county recorder to collect a fee from a person using a bank card or credit card if there is a vendor transaction charge or discount fee. Allows a court clerk and a county recorder to contract with a payment processing company. Allows the payment processing company to collect a transaction fee from the person using the bank card or credit card. Requires redaction of Social Security numbers (unless required under other law) in documents filed with the county recorder. Requires an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or lien on property (other than a federal lien) to have the Social Security numbers redacted before recording and filing unless required by other law. Reduces the standard for the redaction of Social Security numbers in recorded or filed documents from "to the extent possible" to "to the extent practicable and as permitted by law". Adds a culpability standard for the Class A infraction that may be committed when recorded documents containing Social Security numbers are disclosed by the county recorder's office. Provides that a county recorder shall charge a county identification security protection fee for recording or filing a document. Amends the affirmation regarding redacting a Social Security number that must be attached to a document that is recorded or filed. Provides that, for purposes of the law concerning credit services organizations: (1) the definition of "credit

services organization" includes a person that sells the service of obtaining a delay or forbearance of a buyer's obligation under a mortgage; (2) the definition of "extension of credit" includes the right to delay or avoid foreclosure on a buyer's mortgage; (3) it is a deceptive act to take power of attorney from a buyer for any purpose other than inspecting documents as provided by law; and (4) a credit service organization must obtain a surety bond in the amount of \$25,000 instead of \$10,000 before doing business in Indiana. **(This conference committee report: Adds provisions from ESB 168 concerning credit service organizations. Removes language that requires the title insurance enforcement fund fee to be specified as a line item on the closing statement and on the HUD form used in residential transactions. Makes technical changes.)**

Effective: Upon passage; January 1, 2006 (retroactive); July 1, 2006.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1114 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 24-5-15-2 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) As used in this
- 4 chapter, "credit services organization" means a person that, with respect
- 5 to the extension of credit by another person, sells, provides, performs,
- 6 or represents that the person can or will sell, provide, or perform, in
- 7 return for the payment of money or other valuable consideration, any of
- 8 the following services:
- 9 (1) Improving a buyer's credit record, credit history, or credit rating.
- 10 (2) Obtaining an extension of credit for a buyer.
- 11 **(3) Obtaining a delay or forbearance of a buyer's obligation**
- 12 **under a mortgage.**
- 13 ~~(3)~~ (4) Providing advice or assistance to a buyer concerning the
- 14 services described in subdivision (1), ~~or~~ (2), or ~~both~~ (3).
- 15 (b) The term "credit services organization" does not include any of the
- 16 following:
- 17 (1) A person authorized to make loans or extensions of credit under
- 18 state or federal laws that is subject to regulation and supervision
- 19 under state or federal laws, or a lender approved by the United
- 20 States Secretary of Housing and Urban Development for
- 21 participation in a mortgage insurance program under the federal

1 National Housing Act (12 U.S.C. 1701 et seq.).

2 (2) A bank or savings association or a subsidiary of a bank or
3 savings association that has deposits or accounts that are eligible
4 for insurance by the Federal Deposit Insurance Corporation.

5 (3) A credit union doing business in Indiana.

6 (4) A nonprofit organization exempt from taxation under Section
7 501(c)(3) of the Internal Revenue Code.

8 (5) A person licensed as a real estate broker under IC 25-34.1 if the
9 person is acting within the course and scope of the person's license.

10 (6) A person admitted to the practice of law in Indiana if the person
11 is acting within the course and scope of the person's practice as an
12 attorney.

13 (7) A broker-dealer registered with the Securities and Exchange
14 Commission or the Commodity Futures Trading Commission if the
15 broker-dealer is acting within the course and scope of the
16 broker-dealer's regulation.

17 (8) A consumer reporting agency (as defined in the Federal Fair
18 Credit Reporting Act (15 U.S.C. 1681 et seq.)).

19 SECTION 2. IC 24-5-15-3 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. As used in this
21 chapter, "extension of credit" means the right to:

22 (1) defer payment of debt ~~or offered or granted primarily for~~
23 **personal, family, or household purposes;**

24 (2) incur debt and defer payment of the debt offered or granted
25 primarily for personal, family, or household purposes; **or**

26 **(3) delay or avoid foreclosure on a buyer's residence.**

27 SECTION 3. IC 24-5-15-5 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The following are
29 deceptive acts:

30 (1) To charge or receive money or other valuable consideration
31 before the complete performance of services that a credit services
32 organization has agreed to perform for or on behalf of a consumer,
33 unless the credit services organization has under section 8 of this
34 chapter:

35 (A) obtained a surety bond issued by a surety company admitted
36 to do business in Indiana; or

37 (B) established an irrevocable letter of credit.

38 (2) To charge or receive money or other valuable consideration to
39 refer a buyer to a retail seller that will or may extend credit to the
40 buyer if the extension of credit is made upon substantially the same
41 terms as those available to the general public.

42 (3) To make or to advise a buyer to make a statement with respect
43 to the buyer's creditworthiness, credit standing, or credit capacity
44 that is:

45 (A) false or misleading; or

46 (B) that should be known by the exercise of reasonable care to be
47 false or misleading;

48 to a consumer reporting agency or to a person that has extended
49 credit to the buyer or to whom the buyer is applying for an

extension of credit.

(4) To make or use a false or misleading representation in an offer to sell or a sale of the services of a credit services organization, including:

(A) guaranteeing to "erase bad credit" or using words to that effect unless the representation clearly discloses that this can be done only if a person's credit history is inaccurate or obsolete;

(B) guaranteeing an extension of credit regardless of the buyer's previous credit history unless the representation clearly discloses the eligibility requirements for obtaining the extension of credit; or

(C) requiring a buyer to waive a right protected by a state or federal law.

(5) To take a power of attorney from a buyer for any purpose other than inspecting documents as provided by law.

SECTION 4. IC 24-5-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) Before doing business in Indiana, a credit services organization must obtain a surety bond in the amount of ~~ten~~ **twenty-five** thousand dollars (~~\$10,000~~) **(\$25,000)**, issued by a surety company authorized to do business in Indiana in favor of the state for the benefit of a person that is damaged by a violation of this chapter.

(b) The attorney general may waive the bonding requirement under subsection (a) and, instead of the bond, accept an irrevocable letter of credit for an equivalent amount issued in favor of the state for the benefit of a person that is damaged by a violation of this chapter.

SECTION 5. IC 27-7-3.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 3.6. Title Insurance Enforcement Fund

Sec. 1. The title insurance enforcement fund is established for the following purposes:

(1) To provide supplemental funding for department operations that are related to title insurance.

(2) To pay the costs of hiring and employing staff in the area of enforcement of title insurance law.

Sec. 2. The title insurance enforcement fund shall be administered by the commissioner. The expenses of administering the title insurance enforcement fund shall be paid from money in the fund.

Sec. 3. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

Sec. 4. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 5. The budget agency may augment the appropriation for the department of insurance from balances in the fund.

Sec. 6. The following shall be deposited in the title insurance enforcement fund:

(1) Policy reporting fees remitted by title insurers to the commissioner under section 7 of this chapter.

(2) All fines, monetary penalties, and costs imposed upon persons by the department as authorized by law for violation of IC 27-7-3.5.

(3) Other amounts remitted to the commissioner or the department that are required by law to be deposited into the title insurance enforcement fund.

Sec. 7. (a) A person that purchases a title insurance policy shall pay to the title insurer that issues the title insurance policy a fee of five dollars (\$5) as a fee for the title insurance enforcement fund at the time of payment for the title insurance policy.

(b) A title insurer shall:

(1) retain two dollars (\$2) of the fee collected under subsection (a) as an administrative fee; and

(2) pay to the department three dollars (\$3) of the fee collected under subsection (a) for deposit in the title insurance enforcement fund.

SECTION 6. IC 32-21-1-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. A conveyance of land may incorporate by reference a recorded covenant, restriction, easement, or other encumbrance on the use of the land with a clause that is substantially similar to either of the following:

(1) "Subject to the _____ (insert the type of encumbrance) recorded on _____ (insert the date of recording) in _____ (insert the book and page number on which the encumbrance is recorded or the instrument number in which the encumbrance is recorded).".

(2) "Subject to _____ (insert the type of encumbrance) of record.".

SECTION 7. IC 32-21-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 1. In any suit to establish title to land or real estate, possession of the land or real estate is not adverse to the owner in a manner as to establish title or rights in and to the land or real estate unless the adverse possessor or claimant pays and discharges all taxes and special assessments **that the adverse possessor or claimant reasonably believes in good faith to be** due on the land or real estate during the period the adverse possessor or claimant claims to have possessed the land or real estate adversely. However, this section does not relieve any adverse possessor or claimant from proving all the elements of title by adverse possession required by law.

SECTION 8. IC 33-37-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A payment made under this chapter does not finally discharge the person's liability, and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit.

(b) The clerk may contract with a bank or credit card vendor for

1 acceptance of bank or credit cards. ~~However, Subject to subsection~~
 2 **(d), if there is a vendor transaction charge or discount fee, whether**
 3 **billed to the clerk or charged directly to the clerk's account, the clerk**
 4 **shall collect a credit card service fee equal to the vendor transaction**
 5 **charge or discount fee from the person using the bank or credit card.**
 6 **shall collect a fee from the person using the bank card or credit**
 7 **card.** The fee collected under this section is a permitted additional
 8 charge to the money the clerk is required to collect under section 1(1)
 9 of this chapter.

10 **(c) Subject to subsection (d), the clerk may contract with a**
 11 **payment processing company, which may collect a transaction fee**
 12 **from the person using the bank card or credit card. The fee**
 13 **collected under this section is a permitted additional charge to the**
 14 **money the clerk is required to collect under section 1(1) of this**
 15 **chapter.**

16 **(d) The clerk shall collect and deposit in the appropriate fund an**
 17 **amount not less than the amount the clerk would collect and**
 18 **deposit if the clerk received payment by a means other than a bank**
 19 **card or credit card.**

20 SECTION 9. IC 36-2-7-10 IS AMENDED TO READ AS FOLLOW
 21 [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) The county recorder shall
 22 tax and collect the fees prescribed by this section for recording, filing,
 23 copying, and other services the recorder renders, and shall pay them into
 24 the county treasury at the end of each calendar month. The fees
 25 prescribed and collected under this section supersede all other recording
 26 fees required by law to be charged for services rendered by the county
 27 recorder.

28 (b) The county recorder shall charge the following:

29 (1) Six dollars (\$6) for the first page and two dollars (\$2) for each
 30 additional page of any document the recorder records if the pages
 31 are not larger than eight and one-half (8 ½) inches by fourteen (14)
 32 inches.

33 (2) Fifteen dollars (\$15) for the first page and five dollars (\$5) for
 34 each additional page of any document the recorder records, if the
 35 pages are larger than eight and one-half (8 ½) inches by fourteen
 36 (14) inches.

37 (3) For attesting to the release, partial release, or assignment of any
 38 mortgage, judgment, lien, or oil and gas lease contained on a
 39 multiple transaction document, the fee for each transaction after the
 40 first is the amount provided in subdivision (1) plus the amount
 41 provided in subdivision (4) and one dollar (\$1) for marginal
 42 mortgage assignments or marginal mortgage releases.

43 (4) One dollar (\$1) for each cross-reference of a recorded
 44 document.

45 (5) One dollar (\$1) per page not larger than eight and one-half (8
 46 1/2) inches by fourteen (14) inches for furnishing copies of records
 47 produced by a photographic process, and two dollars (\$2) per page
 48 that is larger than eight and one-half (8 1/2) inches by fourteen (14)
 49 inches.

(6) Five dollars (\$5) for acknowledging or certifying to a document.

(7) Five dollars (\$5) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 32-19-4-3 or IC 36-2-12-11(e).

(8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(9) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.

(10) A supplemental fee of three dollars (\$3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document.

(11) Three dollars (\$3) for each mortgage on real estate recorded, in addition to other fees required by this section, distributed as follows:

(A) Fifty cents (\$0.50) is to be deposited in the recorder's record perpetuation fund.

(B) Two dollars and fifty cents (\$2.50) is to be distributed to the auditor of state on or before June 20 and December 20 of each year as provided in IC 24-9-9-3.

(c) The county recorder shall charge a two dollar (\$2) county identification security protection fee for recording or filing a document. This fee shall be deposited under IC 36-2-7.5-6.

~~(c)~~ **(d)** The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under subsection (b)(5), (b)(8), (b)(9), and (b)(10), and fifty cents (\$0.50) from revenue received under subsection (b)(11), shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment.

~~(d)~~ **(e)** As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

~~(e)~~ **(f)** The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

~~(f)~~ **(g)** The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or

(2) performing any service under any of the following:

(A) IC 6-1.1-22-2(c).

(B) IC 8-23-7.

(C) IC 8-23-23.

(D) IC 10-17-2-3.

(E) IC 10-17-3-2.

(F) IC 12-14-13.

(G) IC 12-14-16.

~~(g)~~ (h) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

SECTION 10. IC 36-2-7-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10.1. (a) As used in this section, "bulk form" means:

(1) a copy of all recorded documents received by the county recorder for recording in a calendar day, week, month, or year;

(2) the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month, or year; or

(3) both subdivisions (1) and (2).

(b) As used in this section, "bulk user" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that purchases bulk form copies. However, "bulk user" does not include an individual, a corporation, a partnership, a limited liability company, or an unincorporated association whose primary purpose is to resell public records.

(c) As used in this section, "copy" means:

(1) duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage; or

(2) reproducing on microfilm.

(d) As used in this section, "indices" means all of the indexing information used by the county recorder for finding, retrieving, and viewing a recorded document.

(e) As used in this section, "recorded document" means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the county recorder.

(f) The county recorder shall collect the fees prescribed by this section for the sale of recorded documents in bulk form copies to bulk users of public records. The county recorder shall pay the fees into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the county recorder to bulk users.

(g) Except as provided by subsection (h), the county recorder shall charge bulk users the following for bulk form copies:

(1) Five cents (\$0.05) per page for a recorded document, including the index of the instrument number or book and page, or both, for retrieving the recorded document.

(2) Five cents (\$0.05) per recorded document for a copy of the other indices used by the county recorder for finding, retrieving, and viewing a recorded document.

(h) As used in this subsection, "actual cost" does not include labor costs or overhead costs. The county recorder may charge a fee that exceeds the amount established by subsection (g) if the actual cost of providing the bulk form copies exceeds the amount established by subsection (g). However, the total amount charged for the bulk form

copies may not exceed the actual cost plus one cent (\$0.01) of providing the bulk form copies.

(i) The county recorder shall provide bulk users with bulk form copies in the format or medium in which the county recorder maintains the recorded documents and indices. If the county recorder maintains the recorded documents and indices in more than one (1) format or medium, the bulk user may select the format or medium in which the bulk user shall receive the bulk form copies. If the county recorder maintains the recorded documents and indices for finding, retrieving, and viewing the recorded documents in an electronic or a digitized format, a reasonable effort shall be made to provide the bulk user with bulk form copies in a standard, generally acceptable, readable format. Upon request of the bulk user, the county recorder shall provide the bulk form copies to the bulk user within a reasonable time after the recorder's archival process is completed and bulk form copies become available in the office of the county recorder.

(j) Bulk form copies under this section may be used:

- (1) in the ordinary course of the business of the bulk user; and
- (2) by customers of the bulk user.

The bulk user may charge its customers a fee for using the bulk form copies obtained by the bulk user. However, bulk form copies obtained by a bulk user under this section may not be resold.

(k) All revenue generated by the county recorder under this section shall be deposited in the recorder's record perpetuation fund and used by the recorder in accordance with ~~IC 36-2-7-10(c)~~: **section 10(c) of this chapter.**

(l) This section does not apply to enhanced access under IC 5-14-3-3.

SECTION 11. IC 36-2-7.5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. This chapter does not apply to a federal lien on real property or federal tax lien on personal property as described in IC 36-2-11-25.**

SECTION 12. IC 36-2-7.5-2, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "redacting technology" refers to technology that has the ability to:

- (1) search recorded **and filed** documents; and
- (2) redact Social Security numbers from recorded **and filed** documents.

SECTION 13. IC 36-2-7.5-4, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A document may not be submitted to the county recorder for recording **or filing** if the document contains the Social Security number of an individual, unless required by law.

SECTION 14. IC 36-2-7.5-5, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) An individual preparing a document for recording **or filing** shall **affirm, under the penalties for perjury, that the individual has:**

(1) reviewed the entire document before submitting the document for recording for the purpose of identifying and, to the extent permitted by law, redacting all Social Security numbers; and
 (2) taken reasonable care to redact each Social Security number in the document.

(b) An individual shall make the affirmation required under subsection (a) on a form prescribed by the state board of accounts: **make the affirmation and statement required by IC 36-2-11-15(c) and IC 36-2-11-15(d).**

SECTION 15. IC 36-2-7.5-6, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A county recorder may not accept a document for recording without the completed and executed form described in section 5 of this chapter attached to the document. A form attached to a document under this subsection is considered part of the document for purposes of the fee charged under subsection (b) in accordance with ~~IC 36-2-7-10~~.

~~(b)~~ (a) The county recorder shall charge a **two dollar (\$2) county identification security protection** fee for recording **or filing** a document under this chapter in accordance with ~~IC 36-2-7-10~~: **addition to the fees required by IC 36-2-7-10(b)(1) through IC 36-2-7-10(b)(11).**

~~(c)~~ (b) The county recorder shall deposit two dollars (\$2) of the fee charged under subsection ~~(b)~~ (a) in the county identification security protection fund established by section 11 of this chapter. This subsection expires July 1, 2011.

SECTION 16. IC 36-2-7.5-7, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The state board of accounts shall establish reasonable procedures for a county recorder to follow:

(1) when receiving and reviewing a document submitted for recording **or filing**; and

(2) in order to comply with this chapter.

SECTION 17. IC 36-2-7.5-8, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 8. (a) This section applies after December 31, 2007.

(b) To the extent ~~possible~~, **practicable and as permitted by law**, a county recorder may not disclose a recorded **or filed** document for public inspection under IC 5-14-3 until the county recorder has:

(1) searched the document for a Social Security number; and

(2) to the extent ~~possible~~, **practicable**, redacted any Social Security numbers contained in the document;

using redacting technology.

SECTION 18. IC 36-2-7.5-9, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. A county recorder shall post a notice in the county recorder's office that states the:

(1) duties of:

(A) an individual preparing **or reviewing** a document for recording **or filing**; and

(B) the county recorder;

under this chapter; and

(2) penalties under section 12 of this chapter.

SECTION 19. IC 36-2-7.5-11, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) As used in this section, "fund" refers to a county identification security protection fund established under subsection (b).

(b) Each county legislative body shall establish an identification security protection fund to be administered by the county recorder. The county fiscal body shall appropriate money from the fund.

(c) A fund consists of money deposited in the fund under section ~~6(c)~~ **6(b)** of this chapter. Money in a fund does not revert to the county general fund.

(d) A county recorder may use money in the fund only to purchase, upgrade, implement, or maintain redacting technology used in the office of the county recorder.

SECTION 20. IC 36-2-7.5-12, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 12. (a) This section applies after June 30, 2008.

(b) A county recorder or an employee of a county recorder who **knowingly, intentionally, or recklessly** discloses a recorded **or filed** document that contains a Social Security number without having the document searched, to the extent technologically ~~possible~~, **practicable and as permitted by law**, using redacting technology commits a Class A infraction.

SECTION 21. IC 36-2-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. (a) This section does not apply to:

(1) an instrument executed before July 1, 1959, or recorded before July 26, 1967;

(2) a judgment, order, or writ of a court;

(3) a will or death certificate; ~~or~~

(4) an instrument executed or acknowledged outside Indiana; **or**

(5) a federal lien on real property or a federal tax lien on personal property, as described in section 25 of this chapter.

(b) The recorder may receive for record or filing an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or lien on property only if:

(1) the name of the person and governmental agency, if any, that prepared the instrument is printed, typewritten, stamped, or signed in a legible manner at the conclusion of the instrument; **and**

(2) all Social Security numbers in the document are redacted, unless required by law.

(c) An instrument complies with ~~this section subsection (b)(1)~~ if it contains a statement in the following form: "This instrument was

prepared by (name)".

(d) An instrument complies with subsection (b)(2) if it contains a statement in the following form: "I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. (name)".

SECTION 22. IC 36-2-11-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. (a) This section applies to:

- (1) a lien arising under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. (commonly known as the Superfund Law); and
- (2) any other federal lien on real property or any federal tax lien on personal property provided for in the statutes or regulations of the United States.

In order for a lien covered by this section to be perfected, notice of the lien must be filed in the office of the recorder of the county in which the real or personal property subject to the lien is located.

(b) When a notice of a lien covered by this section is presented to the recorder for filing, the recorder shall enter it appropriately in the entry book and in the miscellaneous record. The entries made under this subsection must show the date of filing, the book and page number or instrument number, the name of the person named in the notice, a legal description of the property, if appropriate, and any serial number or other identifying number given in the notice.

(c) When a certificate of discharge of a federal lien covered by this section is issued by the proper officer and presented for filing in the office of the recorder of the county where the notice of lien was filed, the recorder shall record the certificate of discharge as a release of the lien. However, to be recorded under this subsection, the certificate must refer to the recorder's book and page number or instrument number under which the lien was recorded.

(d) When recording a release of a lien under subsection (c), the recorder shall inscribe, in the margin of each entry made to record the lien under subsection (a), a reference to the place where the release is recorded.

(e) Upon the recording of the certificate of discharge as a release under subsection (c) and the inscribing of the references to the release under subsection (d), a certificate of discharge of a lien covered by this section operates as a full discharge and satisfaction of the lien, unless the references to the release inscribed under subsection (d) specifically note the release as a partial lien release.

(f) A federal lien on real property and a federal tax lien on personal property are not subject to the:

- (1) requirement to redact Social Security numbers as described in IC 36-2-7.5-1.5; or**
- (2) requirements to include statements in a recorded or filed instrument as described in section 15(c) and 15(d) of this chapter.**

1 SECTION 23. IC 36-2-11-27 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2006]: **Sec. 27. (a) A payment to the county recorder for**
4 **any purpose may be made by any of the following financial**
5 **instruments that the county recorder authorizes to use:**

6 (1) Cash.

7 (2) Check.

8 (3) Bank draft.

9 (4) Money order.

10 (5) Bank card or credit card.

11 (6) Electronic funds transfer.

12 (7) Any other financial instrument authorized by the county
13 recorder.

14 (b) If there is a charge to the county recorder for the use of a
15 financial instrument other than a bank card or credit card, the
16 county recorder shall collect a sum equal to the amount of the
17 charge from the person who uses the financial instrument.

18 (c) The county recorder may contract with a bank card or credit
19 card vendor for acceptance of bank cards or credit cards. A
20 payment made under this chapter does not finally discharge the
21 person's liability, and the person has not paid the liability until the
22 county recorder receives payment or credit from the institution
23 responsible for making the payment or credit. Subject to
24 subsection (e), if there is a vendor transaction card or discount fee,
25 whether billed to the county recorder or charged directly to the
26 county recorder's account, the county recorder shall collect a fee
27 from the person using the bank card or credit card. The fee is a
28 permitted charge under IC 24-4.5-3-202.

29 (d) Subject to subsection (e), the county recorder may contract
30 with a payment processing company, which may collect a
31 transaction fee from the person using the bank card or credit card.

32 (e) The county recorder shall collect and deposit in the
33 appropriate fund an amount not less than the amount the county
34 recorder would collect and deposit if the county recorder received
35 payment by a means other than a bank card or credit card.

36 (f) Funds described in subsection (c) may be used without
37 appropriation to pay the transaction charge or discount fee
38 charged by the bank or credit card vendor.

39 SECTION 24. An emergency is declared for this act.

 (Reference is to EHB 1114 as reprinted March 3, 2006.)

Conference Committee Report
on
Engrossed House Bill 1114

Signed by:

Representative Foley
Chairperson

Senator Steele

Representative Van Haaften

Senator Broden

House Conferees

Senate Conferees